

United States District Court

United States Court
Southern District of Texas
FILED

MAR 05 2009

Southern

DISTRICT OF

Texas **Michael N. Milby, Clerk of Court**

UNITED STATES OF AMERICA

V.

CRUZ-Uelez, Jose Luis

CRIMINAL COMPLAINT

CASE NUMBER: C-09-213M

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or March 04, 2009 in Brooks County, in the Southern District of Texas defendant(s) did, (Track Statutory Language of Offense)

Knowingly, intentionally and unlawfully possess with intent to distribute a controlled substance in Schedule I of the Controlled Substance Act of 1970, to wit 166.4 kilograms (approximate gross weight) of marijuana

in violation of Title 21 United States Code, 841 (a)(1)

I further state that I am a(n) Task Force Officer and that this complaint is based on the following

Official Title

facts:

See Attachment A

Continued on the attached sheet and made a part

☒ Yes ☐ No

Cris Gracia Pendleton
Cris Gracia Pendleton
Signature of Complainant

Sworn to before me, and subscribed in my presence,

March 5, 2009
Date

at Corpus Christi, Texas
City and State

B. Janice Ellington, U.S. Magistrate Judge
Name and Title of Judicial Officer

B. Janice Ellington
Signature of Judicial

ATTACHMENT "A"

CRUZ-Uelez, Jose Luis

On, March 4, 2009, Border Patrol Agent (BPA) Robert Martinez III, and Border Patrol Agent Eleno Barron and his Service Canine "Max-H" were performing primary traffic duties at the United States Border Patrol Checkpoint, located 13 miles south of Falfurrias, Texas. At approximately 1540 hours, a purple Volvo tractor bearing Texas LPS 2CB-056, approached the primary inspection lane for a routine Immigration Inspection of its occupants. BPA Martinez questioned the driver later identified as, CRUZ-UELEZ, Jose Luis (Legal Permanent Resident), to his citizenship, he stated "I am a Legal Permanent Resident". CRUZ-UELEZ then stated the passenger was his son. BPA Martinez then asked the front passenger later identified as, CRUZ, Jose Luis Jr. whether he was a U.S. Citizen to which he stated "yes". While questioning the occupants as to their citizenship, Agent Barron advised BPA Martinez that his service K-9 "Max-H" alerted to the presence of an odor that he is trained to detect emitting from the fifth wheel area. BPA Martinez asked CRUZ-UELEZ for consent to further inspect the tractor-trailer in secondary with the canine; CRUZ-UELEZ then consented and parked in the secondary inspection area.

Once parked in the secondary area, Border Patrol Agent Julio Gomez then asked all the occupants to step out to the rear of the tractor-trailer. Agent Barron again advised BPA Martinez that his service K-9 was alerting and indicating to the fifth wheel area of the trailer. At that time Agent Barron and BPA Martinez noticed all the fresh paint and fresh weld marks. Agents then proceeded to drop the trailer off the truck and remove the axel grease. After removing some of the axel grease, Agents immediately noticed an access panel held by four bolts. Agents removed the bolts and discovered small black bundles. One of the bundles was cut open and revealing a green leafy substance which was later determined to be marijuana.

At this time, CRUZ-UELEZ and CRUZ, Jr. were placed under arrest. BPA Martinez advised CRUZ-UELEZ of his Miranda Warning Rights in his preferred language of Spanish, while Border Patrol Agent Julio Gomez witnessed. CRUZ-UELEZ signed the form indicating that he understood his rights. BPA Martinez advised CRUZ, Jr., of his Miranda Warning Rights in his preferred language of English, while Border Patrol Agent Julio Gomez witnessed. CRUZ, Jr., signed the form indicating that he understood his rights.

CRUZ-UELEZ stated that he had no knowledge of any contraband in the tractor-trailer. BPA Martinez asked CRUZ-UELEZ as to where he came from and his destination. CRUZ-UELEZ stated he was coming from a Stripes Store in Las Milpas, Texas. CRUZ-UELEZ stated that his wife dropped him and his son off at the Boot Jack Store and were to be picked up and transported to the tractor-trailer. CRUZ-UELEZ stated a male subject picked them up and took them to a Stripes Convenience Store where the tractor-trailer was. CRUZ-UELEZ stated he was just starting for the company and was to drive the tractor to Alice, Texas. When asked if he was going to get paid for

transporting the tractor, CRUZ-UELEZ stated they were going to pay him 25 % of the load that he was to pick up in Alice, Texas. CRUZ-UELEZ then stated a male subject by the name of Emilio helped him change the title of the trailer to his name so he could start working for him. He stated this was his first job.

After being advised of his rights, CRUZ, Jr., stated he had no knowledge of any contraband in the tractor-trailer. CRUZ, Jr., stated his dad asked him last night if he wanted to go to Alice with him. CRUZ, Jr. stated he told his dad "yes". CRUZ-UELEZ stated they came straight from a Stripes Convenience Store and were going to Alice, Texas. He stated he was only going for the ride.

49 small bundles of marijuana with a total estimated weight of 366 lbs were removed from the fifth wheel compartment. The marijuana was wrapped in black plastic with no marks.

On March 4, 2009, TFO Cris Gracia Pendleton and S/A Jennifer Cotter arrived at the Falfurrias USBP Checkpoint. TFO Gracia Pendleton took custody of CRUZ-Uelez, Jose Luis and the evidence involved in the case. TFO Gracia Pendleton advised CRUZ-Uelez of his Miranda Rights witnessed by S/A Cotter. CRUZ-Uelez advised that he understood his rights, and was willing to answer questions.

CRUZ-Uelez stated that on 03/04/09, an unknown male by the name of Emilio, LNU picked up CRUZ-Uelez and Jose Cruz, Jr., at the Boot Jack Store on Jackson St, in Pharr, Texas, and that CRUZ-Uelez, Jose Cruz, Jr. traveled to a Quality Part Store on Hwy 281/Eldora Road to purchase a part needed for the load that CRUZ-Uelez was to pick up in Alice, Texas. TFO Gracia Pendleton asked CRUZ-Uelez what type of load CRUZ-Uelez was to pick up in Alice, Texas CRUZ-Uelez stated that he did not know what type of load he was to pick up in Alice, Texas other than, Emilio, LNU instructed CRUZ-Uelez to travel to Alice, Texas and that Emilio, LNU would contact CRUZ-Uelez via cellular telephone with further instructions. TFO Gracia Pendleton asked CRUZ-Uelez what the purpose of purchasing the particular part was if CRUZ-Uelez did not even have a load lined up. CRUZ-Uelez could not answer and just stated that Emilio, LNU was just to contact him with further instructions. CRUZ-Uelez continued to deny any knowledge of the marijuana located in the trailer that was registered to him.

CRUZ-Uelez, stated that the registered owner of the tractor Ernesto Sosa purchased the trailer, but registered it in CRUZ-Uelez' name so that CRUZ-Uelez could continue to work for SOSA. CRUZ-Uelez also stated that SOSA took CRUZ-Uelez to an Attorney a couple of days ago, and that the Attorney prepared a document with regards to renting the 1997 Purple Volvo driven by CRUZ-Uelez at the time of his arrest. CRUZ-Uelez stated that the agreement was that CRUZ-Uelez was to pay \$300.00 a month towards the rental of the VOLVO from SOSA. TFO Gracia Pendleton asked CRUZ-Uelez why SOSA would purchase a trailer valued at \$10,000.00 and just agree to register the trailer in CRUZ-Uelez name. CRUZ-Uelez would avoid answering the question. *Note* during the entire interview CRUZ-Uelez was showing obvious nervous behavior, continued to

shift in his seat, rub his face, and was constantly crossing his arms when asked about the marijuana located in the trailer.

Assistant United States Attorney John Muschenheim was contacted and verbally authorized the Federal prosecution of CRUZ-Uelez. AUSA Muschenheim also authorized the release of Jose Cruz Jr., at the Falfurrias Checkpoint.

The amount of marijuana approximately 166.4 kilograms infers the intent to distribute.

CRUZ-Uelez was booked in the Brooks County Detention Center for overnight detention.